

CAUSE NO. 22-CV-0675

SALT & PEPPER RESTAURANTS, INC.

Plaintiff/Garnishor,

VS.

**TIGHT ENDS SPORTS BAR & GRILL, LLC
and TIMOTHY DUNGAN**

Defendants,

VS.

BANKSOUTH

Garnishee.

IN THE DISTRICT COURT

GALVESTON COUNTY, TEXAS

56th JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL ANSWER TO DEFENDANT'S COUNTERCLAIM

Plaintiff Salt & Pepper Restaurants, Inc. ("***Plaintiff***") files this Original Answer to Defendant Tight Ends Sports Bar & Grill, LLC's ("***Tight Ends***") Original Counterclaim and, in support thereof, respectfully shows as follows:

I. GENERAL DENIAL

Pursuant to Texas Rule of Civil Procedure 92, Plaintiff generally denies each and every material allegation contained in Defendant Tight Ends' Counterclaim, along with any amendment or supplement thereto, and states said allegations are not true in whole or in part, and further demand strict proof thereof in accordance with Texas law.

II. AFFIRMATIVE AND OTHER DEFENSES

Pleading further, and in the alternative, without waving the foregoing, Tight Ends' counterclaims are barred in whole or in part by Tight Ends' failure to comply with terms of the applicable lease.

Pleading further, and in the alternative, without waving the foregoing, Tight Ends' counterclaims are barred in whole or in part by the doctrine of estoppel.

Pleading further, and in the alternative, without waving the foregoing, Tight Ends' counterclaims are barred in whole or in part by the doctrine of waiver.

Pleading further, and in the alternative, without waving the foregoing, Tight Ends' counterclaims are barred in whole or in part by the doctrine of unclean hands.

Pleading further, and in the alternative, without waving the foregoing, Tight Ends' counterclaims are barred in whole or in part by laches.

Pleading further, and in the alternative, without waving the foregoing, Tight Ends' counterclaims are barred in whole or in part by Tight Ends' prior material breach of the applicable lease.

Pleading further, and in the alternative, without waving the foregoing, Tight Ends' counterclaims are barred in whole or in part by the applicable statute of limitations.

Pleading further, and in the alternative, without waving the foregoing, Tight Ends' counterclaims are barred in whole or in part by Tight Ends' failure to comply with all conditions precedent, including (without limitation) failure to comply with the notice requirement under Paragraph 14.08 of the lease agreement.

PRAYER

For these reasons, Plaintiff respectfully requests that the Court enter a judgment that Tight Ends take nothing on its counterclaims and award any other relief at law or in equity to which Plaintiff may be entitled.

Respectfully submitted,

GRAY REED

By: /s/ Preston T. Kamin
Preston T. Kamin
Texas Bar No. 24062817
pkamin@grayreed.com
Tyler J. McGuire
Texas Bar No. 24098080
tmcguire@grayreed.com
1300 Post Oak Blvd., Suite 2000
Houston, Texas 77056
(713) 986-7000
(713) 986-7100 (Fax)

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was duly furnished to the following counsel of record electronically through the electronic filing manager (www.efiletexas.gov) on this 1st day of June, 2023 as follows:

John P. Henry
jhenry@jhenrylaw.com
407 West Liberty Street
Round Rock, Texas 78664
(512) 981-7301
Attorney for Defendants

/s/ Preston T. Kamin

Preston T. Kamin

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Rae Cuddihy on behalf of Tyler McGuire

Bar No. 24098080

rcuddihy@grayreed.com

Envelope ID: 76210222

Filing Code Description: Amended Petition

Filing Description: Plaintiff's First Amended Petition

Status as of 6/1/2023 4:41 PM CST

Associated Case Party: Salt & Pepper Restaurants, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
Tyler J.McGuire		tmcguire@grayreed.com	6/1/2023 4:27:04 PM	SENT
Justin R.Cowan		jcowan@grayreed.com	6/1/2023 4:27:04 PM	SENT
Preston TKamin		pkamin@grayreed.com	6/1/2023 4:27:04 PM	SENT

Associated Case Party: Tight Ends Sports Bar & Grill, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
John Henry		jhenry@jhenrylaw.com	6/1/2023 4:27:04 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jackie Kish		jkish@grayreed.com	6/1/2023 4:27:04 PM	SENT